



Frito-Lay, Inc.



June 2, 2004

Office of Nutritional Products, Labeling and Dietary Supplements
Food and Drug Administration
5100 Paint Branch Parkway
College Park, MD 20740-3835

Re: Nutrient Content Claims for Carbohydrates

Frito-Lay appreciates this opportunity to offer comments on carbohydrate claims in nutrition labeling. Frito-Lay North America is headquartered in Plano, TX and is a division of PepsiCo, Inc. Frito-Lay makes and sells many of the largest brands of savory snack foods in America, including Lay's potato chips, Ruffles potato chips, Doritos and Tostitos tortilla chips and Cheetos cheese flavored snacks. The company also offers a wide variety of low-fat, reduced fat and fat-free snacks. Frito-Lay has always supported the communication of sound science to the American public.

Frito-Lay Inc. submits this petition under Section 403(r)(4) of the Federal Food, Drug, and Cosmetic Act and Section 101.69 of the Code of Federal Regulations with respect to the use of labeling claims that relate to the carbohydrate content of food.

Summary of Petition

Frito-Lay's petition to the FDA on carbohydrate claims will address:

- Proposed definitions for labeling of "Carbohydrate Free", "Low Carbohydrate" and "Reduced" or "Less Carbohydrate" nutrient content claims; and
- Proposed guidelines for the labeling of "net carbohydrate" information.

Nutrient Content Claims for Carbohydrates

1. **Carbohydrate Free.** Frito-Lay recommends that the claim "carbohydrate free" be used only for foods containing less than 0.5 gram of total carbohydrate per serving. This definition follows established FDA guidelines allowing the amount of a nutrient to be expressed as zero grams on the Nutrition Facts Panel if a serving of the food contains less than 0.5 gram of the nutrient and also adheres to FDA guidelines for other "free" claims.
2. **Low Carbohydrate.** Frito-Lay recommends that the claim "low carbohydrate" be used only for foods containing 9 grams or less of carbohydrates per serving. This recommendation is based upon the FDA's established standards for use of "low" claims under which the FDA has based definitions of "low" on a percentage of the DRV for the specific nutrient and consideration of the distribution of the nutrient in the food supply. The range of percent DRV for "low" nutrient content claims varies from 2% of the DRV for "low" calories, which are ubiquitous in all foods, to 6.7% of the DRV for "low" cholesterol, which is only found in foods that are animal based or contain animal products. Following these guidelines and considering that carbohydrates are widely distributed but are not found in some food groups, such as meat products, Frito-Lay recommends that the low end of this established range, i.e., 3% of the 300 gram DRV for carbohydrates, or 9 grams of total carbohydrate or less, be used as the standard for "low carbohydrate" foods. In addition, Frito-Lay recommends that the FDA adopt the 50 gram rule

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(as defined for other nutrient content claims for products with a serving size of 30 grams or less) to prevent products that have a very small serving size and are essentially 100% carbohydrate from making a "low carbohydrate" claim.

3. **Reduced or Less Carbohydrate.** Frito-Lay recommends that both "reduced" and "less" carbohydrate claims be permitted only for foods with a minimum reduction of 25% total carbohydrates as compared to either an existing "regular" product or to a market basket or category leader product, in accordance with the manner in which FDA has traditionally used these terms for other nutrients.

Moreover, to ensure that a "reduced" or "less" claim for carbohydrates is nutritionally significant and in accordance with current FDA guidelines prohibiting relative claims, such as "reduced" or "less," where the nutrient content of the reference food meets the requirement for a "low" claim, Frito-Lay recommends as follows:

- a. A "reduced carbohydrate" claim will be prohibited if the "parent"/reference product (as described in CFR Section 101.13(j)) contains 9 grams of total carbohydrate or less per serving (meeting our recommended level for a "low carbohydrate" claim) and
- b. A "less" claim for carbohydrate will be prohibited with respect to a reference product (as described in 21 CFR Section 101.13(j)) that contains 9 grams of total carbohydrate or less per serving.

Guidelines for Net Carbohydrates

Frito-Lay recommends that the term "net carbohydrate" be defined as the mathematical difference between total carbohydrates and the sum of total fiber plus sugar alcohol.

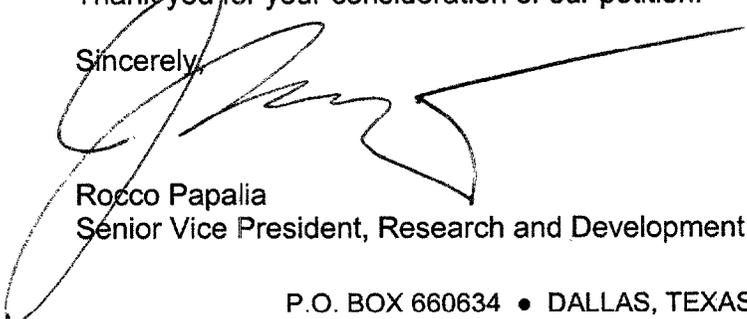
Current labeling practice in the food industry has lead to an array of terms relating to the carbohydrate content of foods, including varying definitions of "net" or "net impact" carbohydrates. Inconsistent terminology and definitions provided by manufacturers have lead to confusion for consumers who are interested in the carbohydrate content of foods. As a result, a consistent definition is required to avoid misleading consumers in this area.

CFR Section 101.9(c)(6) requires that total carbohydrate be declared and sub-divided, if applicable, into dietary fiber (soluble and insoluble), sugar, sugar alcohol and other carbohydrates. By defining "Net Carbohydrates" as proposed, ($\text{Net Carbohydrates} = \text{Total Carbohydrates} - (\text{Total Fiber plus Sugar Alcohol})$), the term would represent the amount of sugar plus other carbohydrates (essentially starch) in the food.

Conclusion

To provide consistency in food labeling, Frito-Lay requests that the FDA promulgate regulation as described herein defining the terms "free," "low," "reduced," and "less" as they apply to carbohydrates. Additionally, Frito-Lay requests that the FDA develop guidance or regulate the use of the term "net" carbohydrate to ensure consistency in carbohydrate labeling for consumers. Thank you for your consideration of our petition.

Sincerely,



Rocco Papalia
Senior Vice President, Research and Development